

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

In re BP Shareholder Derivative Litigation

) MDL Docket No. 2185  
)  
)  
) Case No. 4:10-cv-03447  
)  
) JUDGE KEITH P. ELLISON  
)  
)

**STIPULATION AND [PROPOSED] ORDER GOVERNING  
THE EXCHANGE OF CONFIDENTIAL INFORMATION**

Plaintiffs John P. Miles, Louisiana Municipal Police Employees' Retirement System, City of New Orleans Employees' Retirement System, Frances O. Goldman, Cody A. Nedved and Victor Skomedal (collectively "Plaintiffs"), as well as nominal defendant BP p.l.c. ("BP"), and defendants Anthony B. Hayward, Iain C. Conn, Robert W. Dudley, Byron E. Grote, Andy G. Inglis, Carl-Henric Svanberg, Paul M. Anderson, Antony Burgmans, Cynthia B. Carroll, William M. Castell, George David, Douglas J. Flint, Deanne S. Julius, Ian M.G. Prosser, Erroll B. Davis, Jr. and H. Lamar McKay (collectively "Defendants"), by and through their respective undersigned counsel, subject to this Court's approval, agree and stipulate as follows:

**RECITALS**

WHEREAS, any discovery proceedings in the *In re BP Shareholder Derivative Litigation* (the "Litigation") will necessarily involve the production of certain information which the parties to the Litigation (the "Parties") believe to be confidential and sensitive commercial, financial or business information;

WHEREAS, BP has provided to plaintiffs' and defendants' counsel in multiple cases pending in other courts certain documents and other materials relating to the Deepwater Horizon incident that BP has produced to the Marine Board of Investigation or various committees of the United States Congress (the "BP Materials"), which materials are presently maintained by BP in an electronic database (the "BP Database");

WHEREAS, it is desirable for access to the BP Materials to be provided in the multiple pending cases on substantially similar terms;

WHEREAS, an order governing the confidentiality of the BP Materials was entered on June 4, 2010, in *National Vietnamese American Fishermen Emergency Association, v. BP, PLC*, Civil Action H-10-1607 (S.D. Tex.) (the "NVAFEA Order") attached hereto as Exhibit A;

WHEREAS, the Parties have agreed that, prior to the Court's ruling on motions to dismiss in the Litigation, Plaintiffs' counsel may have access to the BP Materials provided that Plaintiffs agree to substantially the same terms for use the material as governs the use of the same by the plaintiffs in *National Vietnamese American Fishermen Emergency Association, v. BP, PLC*, Civil Action H-10-1607 (S.D. Tex.); and

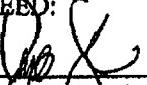
WHEREAS, the entry of this Stipulation and Order will promote the fair and expeditious resolution of this Litigation;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, the terms of the NVAFEA Order, shall govern the handling of documents, depositions upon oral examination, depositions upon written questions, responses to interrogatories, responses to requests for admission, responses to requests for documents, and any other information produced, given, or

exchanged in this Litigation ("Discovery Material"), by or among any Party or non-Party providing Discovery Material.

Dated: November 12, 2010

AGREED:

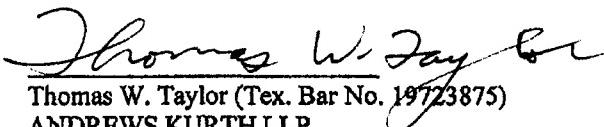
  
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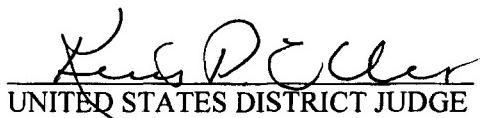
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IT IS SO ORDERED:

  
\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

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National Vietnamese American Fishermen  
Emergency Association, et al.,

Plaintiffs,

versus

BP, PLC., et al.,

Defendants.

Civil Action H-10-1607

### Order Protecting Confidentiality

1. **Purpose.** To preserve the legitimate proprietary and privacy interests of sources of information, this order establishes a procedure for disclosing confidential information, protecting it, and challenging it.
2. **Information.** Information includes the contents of documents, testimony, answers to interrogatories, admissions, and data derived from objects other than documents.
3. **Condition.** This order covers information that the source designates confidential. Something may be designated confidential only when the source reasonably believes it is proprietary or otherwise implicates an interest in its security.
4. **Procedure.**
  - A. **Designation.** To designate information as confidential, a source must mark it or identify it on the record. Either designation may be withdrawn.
  - B. **Marking.** The source must mark each page of documents or each significant component of other objects. The deponent will mark deposition transcripts and the claimant will mark hearing transcripts. A mark similar to these will be used:

ACCESS  
RESTRICTED  
USDC SDTX

ACCESS RESTRICTED  
ATTORNEYS ONLY  
USDC SDTX

Exhibit A

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Case 4:10-cv-01607 Document 31 Filed in TXSD on 06/04/10 Page 2 of 4

- C. **Timing.** Documents and other objects must be designated before disclosure. Transcripts must be designated within 30 days of receipt; all transcripts are confidential for 30 days after receipt.
  - D. **Application.** This order applies to information in this case (a) furnished by parties and non-parties and (b) derived from confidential information.
  - E. **Public.** This order does not apply to information that is public.
  - F. **Errors.** Accidental disclosure of information does not waive the confidence; those who knowingly receive an inadvertent disclosure must return the information to the source immediately and make no use of it.
5. **Who.** Confidential information may be used only by:
- A. Parties,
  - B. The court,
  - C. Court reporters (including audio and video)
  - D. Special masters,
  - E. Mediators,
  - F. Parties' counsel,
  - G. The direct staff of these people, and
  - H. Others specifically identified in writing by the source.
6. **Attorneys Only.**
- A. Access may be further restricted by its being designated for attorneys only. Only the attorneys for the parties and source may use information designated attorneys only.
  - B. This designation is limited to confidential information that could cause competitive injury—directly or indirectly.
7. **Where.** Confidential information must be used only in this case.
8. **How.**
- A. **Acknowledgment.** People having access to confidential information must sign an acknowledgment of this order in a form similar to appendix A.
  - B. **Filings.** No pleading will be sealed if confidential information must be filed, file it under seal as an appendix to the instrument that refers to it. File as little of the source document as possible. References in the instrument must be sufficiently abstract not to disclose the information.

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C. Hearings.

- (x) References to confidential information in pretrial conferences and hearings must be preceded by notice five business days before the court appearance that confidential information will be used.
- (2) A party may refer to confidential information at trial on cross-examination or rebuttal after requesting a bench conference.
- (3) The source must mark the transcripts within 30 days of receipt; if the source is not a party, the party using the information must confer with the source in the marking.

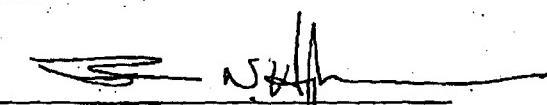
D. Depositions. Deposition testimony is automatically confidential when confidence is asserted at anytime in the deposition; the source must mark the transcripts within 30 days of receipt.

E. Subpoenas. If confidential information is subpoenaed, the source must notify the parties in writing that the subpoena covers confidential information. The source is responsible for protecting subpoenaed information's confidentiality under this order and must respond to the subpoena.

9. Challenges.

- A. Notice and Response. If a party reasonably believes that information should not be restricted, it must specify to the source in writing (a) the data and (b) its grounds for questioning the designation. The source must respond in writing within seven business days.
  - B. Rulings. If the party is still not satisfied, it may move the court to lift the designation. Until the court rules, the designation subsists. If the court rules that the information should not be restricted, the original designation subsists for five business days.
10. Return. This order survives the termination of this case. Within ninety days of termination the parties must (a) return original documents with confidential information and (b) destroy copies of them.

Signed June 4, 2010, at Houston, Texas.

  
Lynn N. Hughes  
United States District Judge

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Appendix A.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

National Vietnamese American Fishermen  
Emergency Association, et al.,  
Plaintiffs,

versus

BP, PLC., et al.,

Defendants.

Civil Action H-10-1407

Acknowledgment of Order on Confidentiality

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Role in Lawsuit:

- Staff to Counsel       Consulting Expert       Testifying Expert  
 Court Reporter       Other Witness       Party Employee

Aligned with:

- This party: \_\_\_\_\_  
 This non-party: \_\_\_\_\_

I have read and acknowledge that I am bound by the order on confidentiality entered in this action.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date